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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

FIDELIS HOLDINGS, LLC, a Nevada limited liability company; FIDELIS HOLDINGS LAS VEGAS, LLC, a Nevada limited liability company; FIDELIS HOLDINGS HENDERSON, LLC, a Nevada limited liability company,

Plaintiffs,

v.

LEARNED J. HAND, an individual,

Defendant.

CASE NO.: 2:15-cv-00147-GMN-NJK

**STIPULATION AND ORDER TO EXTEND  
DISCOVERY SCHEDULE**

**(SECOND REQUEST)**

Pursuant to Local Rules 6-1 and 26-4, Plaintiffs Fidelis Holdings, LLC, Fidelis Holdings Las Vegas LLC, and Fidelis Holdings Henderson LLC (collectively, "Plaintiffs"), by and through their attorneys of record, the law firm of Brownstein Hyatt Farber Schreck, LLP, and Defendant Learned J. Hand ("Defendant"), by and through his attorneys of record, the law firm of Armstrong Teasdale LLP and the law firm of JPF Securities Law, LLC, hereby stipulate and agree, subject to this Court's approval, that the time for discovery deadlines shall be extended thirty (30) days. The parties request this extension because (i) Plaintiffs' expert will need to review and analyze the documents the parties have been diligently trying to retrieve, produce, and

review, and (ii) the industry that this dispute centers around requires specific expertise that is limited.

### **I. INTRODUCTION**

The undersigned parties submit this Stipulated Discovery Plan and Scheduling Order for the following purpose:

1. To allow the parties to complete the gathering, production and analysis of discovery produced and yet to be produced;
2. To allow for the examination of witnesses based upon such evidence produced;
3. To allow for the designation of their respective expert and rebuttal expert witnesses after all evidence has been produced and the taking of depositions of said experts.<sup>1</sup>

### **II. DISCOVERY COMPLETED TO DATE**

#### **A. Federal Rule of Civil Procedure: Rule 26 Disclosures**

##### **1. Plaintiffs' Rule 26 Disclosures:**

On April 20, 2015, Plaintiff served their Rule 26 Initial Disclosure Statement.

##### **2. Defendant's Rule 26 Disclosures:**

On April 20, 2015, Defendant served his Rule 26 Initial Disclosure Statement.

#### **B. Federal Rules of Civil Procedure: Rule 34 Request for Documents**

##### **1. Plaintiffs' Requests for Production of Documents:**

On April 30, 2015, Plaintiffs served their First Rule 34 Request for Production to Defendant. On May 28, 2015, the parties agreed to a two-week extension on Defendant's responses to Plaintiffs' First Rule 34 Request for Production to Defendant. On June 18, 2015, Defendant served his responses to Plaintiffs' First Rule 34 Request for Production to Defendant. Although through no fault of either party, there was a small delay in receiving the documents served with Defendant's responses, which documents consisted of approximately 10,163 pages.

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<sup>1</sup> At this time, Defendant does not anticipate disclosing an affirmative expert.

2. Defendant's Request for Production of Documents:

On April 27, 2015, Defendant served his First Request for Production Pursuant to Fed. R. Civ. P. 34 Propounded to Plaintiffs. On May 28, 2015, the parties agreed to a two-week extension on Plaintiffs' responses to Defendant's First Request for Production Pursuant to Fed. R. Civ. P. 34 Propounded to Plaintiffs. On June 15, 2015, Plaintiffs served their responses to Defendant's First Request for Production Pursuant to Fed. R. Civ. P. 34 Propounded to Plaintiffs. Although through no fault of either party, there was a small delay in receiving the documents served with Plaintiffs' responses, which documents consisted of approximately 5,560 pages.

C. Federal Rules of Civil Procedure: Rule 33 Interrogatories

1. Plaintiffs' Interrogatories:

As of this time, Plaintiffs have not served Interrogatories pursuant to Fed. R. Civ. P. 33, but intend to in the coming weeks.

2. Defendant's Interrogatories:

On May 10, 2015, Defendant served his First Request for Admission Pursuant to Fed. R. Civ. P. 36 and Interrogatories Pursuant to Fed. R. Civ. P. 33 Propounded to Plaintiffs. On May 28, 2015, the parties agreed to a two-week extension on Plaintiffs' responses to Defendant's First Request for Admission Pursuant to Fed. R. Civ. P. 36 and Interrogatories Pursuant to Fed. R. Civ. P. 33 Propounded to Plaintiffs. On June 29, 2015, Plaintiffs served their responses to Defendant's First Request for Admission Pursuant to Fed. R. Civ. P. 36 and Interrogatories Pursuant to Fed. R. Civ. P. 33 Propounded to Plaintiffs.

D. Federal Rules of Civil Procedure: Rule 36 Requests for Admission

1. Plaintiffs' Request for Admission:

As of this time, Plaintiffs have not served Requests for Admission pursuant to Fed. R. Civ. P. 36, but intend to in the coming weeks.

2. Defendant's Request for Admission:

On May 10, 2015, Defendant served his First Request for Admission Pursuant to Fed. R. Civ. P. 36 and Interrogatories Pursuant to Fed. R. Civ. P. 33 Propounded to Plaintiffs. On May 28, 2015, the parties agreed to a two-week extension on Plaintiffs' responses to Defendant's First

Request for Admission Pursuant to Fed. R. Civ. P. 36 and Interrogatories Pursuant to Fed. R. Civ. P. 33 Propounded to Plaintiffs. On June 29, 2015, Plaintiffs served their responses to Defendant's First Request for Admission Pursuant to Fed. R. Civ. P. 36 and Interrogatories Pursuant to Fed. R. Civ. P. 33 Propounded to Plaintiffs.

### **III. DISCOVERY THAT REMAINS TO BE COMPLETED**

#### **A. Federal Rules of Civil Procedure: Rule 26(a)(2) Expert Disclosures**

As of this time, neither party has disclosed an expert pursuant to Fed. R. Civ. P. 26(a)(2); however, Plaintiffs intend to do so.

#### **B. Federal Rules of Civil Procedure: Rule 45 Subpoena**

As of this time, neither party has served a subpoena pursuant to Fed. R. Civ. P. 45.

#### **C. Federal Rules of Civil Procedure: Rule 30 Oral Depositions**

On June 12, 2015, and June 14, 2015, Defendant served notices of deposition for Plaintiffs Pursuant to Fed. R. Civ. P. 30(b)(1), Daniel H.C. Brasov Pursuant to Fed. R. Civ. P. 30(b)(1), Chad Christensen Pursuant to Fed. R. Civ. P. 30(b)(1), and Benjamin Hoskins Pursuant to Fed. R. Civ. P. 30(b)(1). Plaintiffs intend to serve notices of deposition pursuant to Fed. R. Civ. P. 30 in the coming days.

### **IV. DISCOVERY CANNOT BE COMPLETED UNDER THE CURRENT SCHEDULE**

The current discovery schedule needs to be adjusted and extended to accommodate the items listed above. The parties are currently organizing and reviewing all relevant evidence produced in response to the above referenced Requests for Production Pursuant to Fed. R. Civ. P. 34, which consists of numerous pages of documents. Plaintiffs contend that additional time is needed to allow for the review (and related discovery meet and confer efforts) of the document productions. Plaintiffs also contend that additional time is needed to allow their potential expert<sup>2</sup> to review and consider the produced documents in preparing for and conducting analysis for a report. In the prior Stipulation and Order to Extend Discovery Schedule (First Request) [Dkt. 29], Plaintiffs requested more time to determine whether they needed an expert. During the

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<sup>2</sup> At the time of submitting the instant stipulation, Plaintiffs have confirmed their expert's availability, and are awaiting the clearing of conflicts.

1 additional time that the Court granted, Plaintiffs determined that they needed an expert and sought  
2 out an expert. Unfortunately, the unique and relatively new industry that is associated with this  
3 dispute revealed the limited pool of available experts and, in turn, the limited availability of those  
4 same experts. The additional time requested in the instant stipulation will allow Plaintiffs' expert  
5 to review the produced documents in this matter and prepare a report under the Fed. R. Civ. P.  
6 Additionally, the matter is in its infancy and the parties have been diligent in the service of  
7 written discovery, collection of such evidence, and production of such evidence.

8 Furthermore, excusable neglect resulted in the parties seeking an extension before the  
9 expiration of the subject deadline (initial expert disclosure pursuant to Fed. R. Civ. P. 26(a)(2))  
10 but within the 21 days before the expiration of the subject deadline. Following the entry into the  
11 parties Stipulation and Order to Extend Discovery Schedule (First Request) [Dkt. 29], the parties  
12 were preparing their responses and accompanying production to their respective opponents'  
13 Request for Production pursuant to Fed. R. Civ. P. 34. Admittedly, the parties were unsure of the  
14 scope of their respective opponents' production. Once received, the parties began their review of  
15 the productions. Regarding Plaintiffs, they undertook efforts to determine their need for an expert  
16 by considering and weighing the claims and counterclaims at issue with the evidence produced  
17 for and against the respective claims and counterclaims. Plaintiffs also discussed the issue with  
18 their counsel. Once determined that Plaintiffs required the services of an expert, Plaintiffs began  
19 their search. Unfortunately (as discussed above), the unique and relatively new industry that is  
20 associated with this dispute revealed the limited pool of available experts and, in turn, the limited  
21 availability of those same experts. Additionally, the parties prepared for and participated in a  
22 case management conference on June 22, 2015, before the Honorable G. David Miller of the  
23 District Court, El Paso, Colorado. There, the parties reached an agreement that the discovery in  
24 this action be reciprocal to that action. Thus, as the parties were involved in preparing numerous  
25 pages for production, Plaintiffs were determining the need for an expert, and the parties were  
26 participating in a case management conference in the Colorado action, excusable neglect exists  
27 regarding the parties' submission of the instant stipulation before the subject deadline (initial  
28 expert disclosure pursuant to Fed. R. Civ. P. 26(a)(2)) but within the 21 days before the expiration

of the subject deadline. Lastly, the parties have been diligent in their efforts to advance this action with the service of written discovery requests and preparation of productions in response to those requests.<sup>3</sup>

Finally, there is no prejudice to either party for this short extension of only thirty (30) days from the first amended schedule and good causes exists because the receipt and review of the substantial document production is important for the disclosure of an initial expert pursuant to Fed. R. Civ. P. 26(a)(2).

#### **V. PROPOSED DISCOVERY SCHEDULE**

By prior Order Granting Stipulation and Order to Extend Discovery Schedule (First Request) [Dkt. 30], the Court established the following deadlines in this case:

September 7, 2015	Last date to complete discovery
July 6, 2015	Last date to file interim status report
July 6, 2015	Last date to disclose experts pursuant to Fed. R. Civ. P. 26(a)(2)
August 6, 2015	Last date to disclose rebuttal experts
October 5, 2015	Last date to file dispositive motions
November 5, 2015	Last date to file joint pretrial order

To accommodate for the discovery experienced in this case, the parties now stipulate, and hereby request the Court, to extend the deadlines thirty days (30) as follows:

October 7, 2015	Last date to complete discovery
August 5, 2015	Last date to file interim status report
August 5, 2015	Last date to disclose experts pursuant to Fed. R. Civ. P. 26(a)(2)
September 4, 2015	Last date to disclose rebuttal experts
November 3, 2015	Last date to file dispositive motions
December 4, 2015	Last date to file joint pretrial order

This stipulation is made in good faith and is not sought for delay or any improper purpose.

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<sup>3</sup> The other requests to extend the subject discovery deadlines fall outside 21 days from the subject deadline; thus, the parties do not show excusable neglect for those requested extensions.

WHEREFORE, the parties hereby stipulate and respectfully request that this Court enter an Order modifying the Order Granting Stipulation and Order to Extend Discovery Schedule (First Request) [Dkt. 30] to extend all remaining deadlines as set forth above.

DATED this 2nd day of July, 2015.

DATED this 2nd day of July, 2015.

BROWNSTEIN HYATT FARBER  
SCHRECK LLP

ARMSTRONG TEASDALE LLP

By: /s/ Maximilien D. Fetaz, Esq.

By: /s/ Carlos E. Duque, Esq.

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**ORDER**

**IT IS SO ORDERED.**

  
UNITED STATES MAGISTRATE JUDGE

CASE NO.: 2:15-cv-00147-GMN-NJK

DATED: July 2, 2015

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